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6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2021-0006; FRL-10021-72-Region 1]

Air Plan Approval; Maine; Removal of Reliance on Reformulated Gasoline in the Southern Counties of Maine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maine on August 20, 2020. The Maine Department of Environmental Protection (Maine DEP) submission is in support of the State's separate petition requesting that EPA remove the federal reformulated gasoline (RFG) requirements for York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Knox and Lincoln Counties (hereinafter referred to as the ''southern Maine counties"). This action proposes to incorporate into the Maine SIP, Maine's statute, which repealed the State's requirement for the sale of RFG in the southern Maine counties effective November 1, 2020. Maine voluntarily opted into the federal RFG program in 2015. In order to remove the federal RFG requirements from the Maine SIP, Maine is required to complete a noninterference demonstration evaluating whether removing the RFG requirements in the southern Maine counties interferes with the requirements of the Clean Air Act (CAA or Act). EPA is proposing to approve this SIP revision and the corresponding noninterference demonstration. EPA has determined that the revision is consistent with the applicable provisions of the CAA. At this time, EPA is not proposing to remove the requirement for the sale of federal RFG in the applicable southern Maine counties as that is the subject of a separate petition to the EPA Administrator submitted on August 20, 2020, requesting opt-out of the federal RFG program in those counties. The Administrator intends to act on that petition in the near future. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R01-OAR-2021-0006 at https://www.regulations.gov, or via email to townsend.elizabeth@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit https://www.epa.gov/dockets/commenting-epa-dockets. Publicly available docket materials are available at https://www.regulations.gov or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square – Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

FOR FURTHER INFORMATION CONTACT: Elizabeth Townsend, Air Quality Branch, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office

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SUPPLEMENTARY INFORMATION:

Throughout this document whenever ‘‘we,’’ ‘‘us,’’ or ‘‘our’’ is used, we mean EPA.

Table of Contents

I. Background and Purpose

On August 20, 2020, the Maine Department of Environmental Protection (Maine DEP) submitted a revision to its SIP to opt-out of the federal RFG requirements in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Knox and Lincoln Counties (hereinafter referred to as the ‘‘southern Maine counties”).[1] On December 23, 2020, Maine DEP provided an email clarifying the changes that the State was requesting to the Maine SIP. Pursuant to Maine DEP’s December 23, 2020 email, EPA is proposing to approve into the Maine SIP Maine’s revisions to C.M.R. ch. 119 *Motor Vehicle Fuel Volatility Limits* that remove the State’s requirement for the sale of RFG in the southern Maine counties and concurrently adopting Maine statute at 38 M.R.S. §585-N as

[1] Pursuant to 40 CFR 1090.290(d), the Governor must submit a petition to the EPA Administrator requesting removal of any opt-in areas from the federal RFG program. The petition must include certain specified information and any additional information requested by the Administrator. As fully described in section III below, if RFG is relied upon as a control measure in any approved SIP or plan revision, the federal RFG program opt-out regulations require that a SIP revision must be submitted. Maine’s SIP includes Chapter 119 Motor Vehicle Fuel Volatility Limits; as a result, Maine submitted this SIP revision. The decision on whether to grant the optout petition pursuant to 40 CFR 1090.290(d) is at the discretion of the Administrator and will be made through a separate action.

amended by Pub. L. 2019, c. 55, §1, which repealed the State's requirement for the sale of RFG in the southern Maine counties effective November 1, 2020. Maine voluntarily opted-in to the federal RFG program in 2015. In order to remove the federal RFG requirements from the Maine SIP, Maine is required to complete a noninterference demonstration evaluating whether removing the RFG requirements in the southern Maine counties interferes with the requirements of the Clean Air Act (CAA or Act).

To make this noninterference demonstration, Maine completed a technical analysis, including modeling, to estimate the change in emissions that would result from removing RFG from the southern Maine counties. In the noninterference demonstration, Maine evaluated NO_x and VOC emissions inventories from point, non-point (area), and on-road and non-road mobile sources, expressed as tons per summer day for the southern Maine counties plus Waldo and Hancock counties.[2] Emissions data were based on several factors including level of industrial activity, population, and vehicle miles traveled for a typical summer day, and have been prepared according to EPA requirements as described within our May, 2017 guidance entitled, "Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations".[3] Maine completed a technical analysis of NO_x and VOC emissions for 2014/2015, 2017, 2019, and 2023. The 2014/2015 inventory year was mixed, with non-point data only available from 2014, and point, on-road and non-road data available for 2015. For 2014/2015, 2017 and 2019, the emissions inventories included the emissions impacts for federal RFG requirements for the southern Maine counties. A second emissions inventory for 2019 and the emissions inventory for 2023 were prepared to model the emission impacts from the use of conventional gasoline in all nine counties. Separate emissions inventories for 2019 were prepared, one with RFG and one with conventional gasoline, to clearly show the expected emissions impacts from removing the requirement for the

[2] Emissions from Waldo and Hancock counties were included in the emissions inventories for the noninterference demonstration because those counties also fall within the Portland and Midcoast Maintenance Areas.

sale of RFG in the southern Maine counties. The noninterference demonstration then examined the emissions trends in all source sectors, both in aggregate and on a county by county basis, to determine if removing the federal RFG requirements for the southern Maine counties would interfere with attainment or maintenance of the NAAQS for ozone, or any other applicable requirement of the CAA including the NAAQS for PM, SO_2, NO_2, CO, or Pb, or their related precursors. EPA proposes to find that the State has demonstrated that removing the federal RFG requirements in the southern Maine counties will not interfere with attainment or maintenance of any national ambient air quality standards (NAAQS or standard) or with any other applicable requirement of the CAA. EPA's detailed evaluation of Maine's noninterference demonstration can be found in section V.

On August 20, 2020, Maine DEP also submitted a petition to the EPA Administrator requesting to opt-out of the federal RFG program in the southern Maine counties and, as stated above, this SIP revision is submitted in support of that petition (particularly the requirements of 40 CFR 1090.290(d)(1)(iii)-(iv).[3] Maine's opt-out petition will be acted on by the Administrator in a separate action and EPA will notify the State, in writing, of its decision as required by 40 CFR 1090.290(d). If approved in that separate action, the action will establish the effective date of the opt-out, which cannot be less than 90 days from the effective date of the approval of the SIP revision. EPA will also publish a notice in the **Federal Register** to notify the public of the effective date of any opt-out approval as required by 40 CFR 1090.290(d)(4).

II. What is the background for the southern Maine counties?

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). Pursuant to the 1990 CAA amendments York, Cumberland, Sagadahoc, Androscoggin,

[3] A copy of the opt-out petition is included in the docket.

Kennebec, Knox and Lincoln Counties were designated as "moderate" nonattainment, while Waldo and Hancock counties were designated as "marginal" nonattainment for ozone on November 6, 1991 for the 1-hour ozone NAAQS (56 FR 56694).

On July 18, 1997, EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. 62 FR 38856 (July 18, 1997). The EPA set the 8-hour ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set. EPA determined that the 8-hour standard would be more protective of human health, especially for children and adults who are active outdoors, and individuals with a preexisting respiratory disease, such as asthma.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 15, 2004, EPA designated the “Portland area” and the “Midcoast area” as nonattainment for the 1997 ozone NAAQS, and the designations became effective on June 15, 2004.[4,5]

On August 3, 2006, Maine DEP submitted to EPA a request to redesignate the Portland and Midcoast nonattainment areas to attainment for the 1997 ozone NAAQS. This submittal included a plan to provide for maintenance of the 1997 ozone NAAQS in the Portland and Midcoast nonattainment areas through 2016 as a revision to the Maine SIP. EPA approved maintenance plans for the Portland and Midcoast nonattainment areas and the State's request to redesignate the Portland and Midcoast nonattainment areas to attainment for the 1997 ozone NAAQS on December 11, 2006 (71 FR 71489). Subsequently, EPA approved limited maintenance plans for the Portland and Midcoast areas on October 14, 2020 (85 FR 64969). The entire state of Maine was designated as attainment/unclassifiable for both the 2008 and 2015 ozone standards. 77 FR 30088 (May 21, 2012), 82 FR 54232 (November 16, 2017).

State gasoline regulations are intended to assist areas in meeting local air quality requirements. As part of Maine's ozone control strategy for the 1-hour ozone standard, Maine voluntarily opted into the RFG program in 1991 and began selling RFG in the southern seven counties in January of 1995. Maine petitioned the EPA in October 1998 to allow the state to opt out of the RFG program based on the risk to ground water posed by methyl tertiary-butyl ether (MTBE). EPA approved the petition provided several conditions were met, including implementing a replacement gasoline program that achieved reductions of volatile organic compounds (VOCs), that were equivalent to emission reductions achieved using RFG. In response, the Maine Board of Environmental Protection adopted amendments to Chapter 119, Motor Vehicle Fuel Volatility Limit, which required 7.8 pounds per square inch (psi) Reid Vapor Pressure (RVP) gasoline in the southern seven counties from May 1st to September 15th of each year. Having met the conditions, the effective date for withdrawal from the RFG program was March 10, 1999. In May 2001, the Maine DEP submitted a waiver of preemption request for 7.8 psi RVP gasoline to be adopted into its SIP under section 211(c) of the CAA. With the waiver of preemption granted by EPA, the requirement for 7.8 psi RVP gasoline became effective on April 5, 2002 (67 FR 10099).

The 7.8 psi RVP gasoline that Maine adopted is a listed "boutique" fuel by EPA as set out in the **Federal Register** in December 2006 (71 FR 78192). In 2015, Maine decided to remove the 7.8 psi RVP gasoline requirement from its SIP due to limited supply, and with MTBE no longer being added to RFG, opted back into the federal RFG program as an alternative ozone control strategy. Subsequently, EPA approved the removal of the State's regulation that established the 7.8 psi RVP standard on July 19, 2017 (82 FR 33012) and the requirement for 7.8 psi RVP ceased to be in Maine's SIP. In addition, EPA approved the State's request to opt into RFG on February 6, 2015 with an effective date of June 1, 2015 for retailers and wholesale purchaser-consumers (80 FR 6658).

III. What is the history of the reformulated gasoline requirement

The 1990 amendments to the CAA designed the RFG program to reduce ozone levels in the largest metropolitan areas in the country with the worst ground-level ozone or smog problems by reducing vehicle emissions of compounds that form ozone, specifically VOC. The 1990 CAA amendments, specifically section 211(k)(5), directed EPA to issue regulations that specify how gasoline can be ''reformulated'' so as to result in significant reductions in vehicle emissions of ozone-forming and toxic air pollutants relative to the 1990 baseline fuel, and to require the use of such reformulated gasoline in certain ''covered areas.'' The Act defined certain nonattainment areas as ''covered areas'' which are required to use RFG and provided other areas with an ability to ''opt-in'' to the federal RFG program.[4] Of relevance here is CAA section 211(k)(6), which provides that upon application of the Governor of a State, the Administrator shall apply the prohibition contained in section 211(k)(5) for areas to ''opt-in'' to the federal RFG program. In 2013, the State of Maine enacted Public Law 2013 c.221 calling for the use of RFG in southern Maine counties beginning May 1, 2014. On July 23, 2013, the Governor of Maine formally requested, pursuant to CAA section 211(k)(6)(B), that the EPA extend the requirement for the sale of RFG to these counties beginning on May 1, 2014. The Maine legislature subsequently postponed the requirement for the sale of RFG in these counties until June 1, 2015.

EPA first published regulations for the federal RFG program on February 16, 1994 (59 FR 7716). These regulations constituted Phase I of a two-phase nationwide program.[5] The federal RFG regulations also contain provisions, at 40 CFR 1090.290(d), establishing criteria and procedures for opting out of the program for those states that had previously voluntarily opted into the program (''opt-out provisions''). For example, the opt-out provisions require that a

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[4] CAA section 211(k)(5) prohibits the sale of conventional gasoline (i.e., gasoline that the EPA has not certified as reformulated) in certain ozone nonattainment areas beginning January 1, 1995. CAA section 211(k)(10)(D) defines the areas initially covered by the federal RFG program as ozone nonattainment areas having a 1980 population in excess of 250,000 and having the nine highest ozone design values during the period 1987 through 1989. In addition, under CAA section 211(k)(10)(D), any area reclassified as a severe ozone nonattainment area under CAA section 181(b) is also included in the federal RFG program effective one year after the effective date of the reclassification.

[5] A current listing of the RFG requirements for states can be found on EPA's website at: https://www.epa.gov/gasoline-standards.

governor, or his or her authorized representative, submit an opt-out petition to the Administrator of the Agency. The opt-out petition must include certain information, including a description of how, if at all, reformulated gasoline has been relied upon as a control measure in any state or local implementation plan or in any proposed plan that is pending before EPA. This would include, for example, attainment as well as maintenance plans. The petition must also include an explanation of whether the state is intending to submit a revision to an approved or pending plan that does not use RFG as a control measure, and a description of alternative air quality measures, if any, that will replace the use of RFG; a description of the current status of any proposed revision to an approved or pending plan that uses RFG; and a projected schedule for the plan revision submission. See 40 CFR 1090.290(d)(1)(iii)-(iv).

As previously noted, on August 20, 2020, Maine submitted a petition to the EPA Administrator requesting to opt-out of the federal RFG program in the southern Maine counties and, as stated above, this SIP revision is submitted in support of that petition (particularly the requirements of 40 CFR 1090.290(d)(1)(iii)-(iv)).[6] Maine's opt-out petition will be acted on by the Administrator in a separate action, and, if approved, that separate action will establish the effective date of the opt-out, which cannot be less than 90 days from the effective date of the approval of the SIP revision that is the subject of today's approval. EPA will also publish a notice in the **Federal Register** to notify the public of the effective date of any opt-out approval.

IV. What are the section 110(l) requirements?

The use of RFG in Maine was not mandated by the CAA; however, to support Maine's requested SIP revision to remove the federal RFG requirements in the southern Maine counties, the State must demonstrate that the requested change will satisfy section 110(l) of the CAA. Section 110(l) requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act. Maine submitted a noninterference demonstration with this

[6] A copy of the opt-out petition is included in the docket.

SIP revision and EPA proposes to find that the analysis demonstrates noninterference based on an evaluation of current air quality monitoring data and the information provided in the noninterference demonstration.

EPA evaluates each section 110(l) noninterference demonstration on a case-by-case basis considering the circumstances of each SIP revision. EPA interprets section 110(l) as applying to all NAAQS that are in effect, including those that have been promulgated but for which EPA has not yet made designations. The degree of analysis focused on any particular NAAQS in a noninterference demonstration varies depending on the nature of the emissions associated with the proposed SIP revision. EPA's section 110(l) analysis of the noninterference demonstration included as part of Maine's August 20, 2020, SIP revision is provided below.

V. What is EPA's analysis of Maine's submittal?

a. Overall Preliminary Conclusions Regarding Maine's Noninterference Analyses

The RFG program is designed to reduce ozone levels and air toxics in areas that are required to implement the program and in areas that opted into the program. RFG gasoline reduces motor vehicle emissions of the ozone precursors, NO_x and VOC (mainly VOC), through fuel reformulation. On August 20, 2020, Maine DEP submitted a SIP revision along with a corresponding noninterference demonstration to support Maine's separate petition to opt-out of the RFG requirements for York, Cumberland, Kennebec, Androscoggin, Knox, Lincoln, and Sagadahoc counties, referred to in this notice as the southern Maine counties. This noninterference demonstration includes an evaluation of the impact that removing RFG from these counties would have on the area's ability to attain or maintain the NAAQS for ozone, or any other applicable requirement of the CAA including the NAAQS for PM, SO_2, NO_2, CO, or Pb, or their related precursors in the southern Maine counties.[7]

[7] The six NAAQS for which EPA establishes health and welfare-based standards are carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO_2), ozone, particulate matter (PM), and sulfur dioxide (SO_2). RFG requirements do not have an impact on actual or modeled lead emissions.

Maine DEP's noninterference analysis utilized NO_x and VOC emissions inventories from point and non-point (area) sources and EPA's MOVES2014a emission modeling system for on-road and non-road mobile sources, expressed as tons per summer day. Emissions data are based on several factors including level of industrial activity, population, and vehicle miles traveled for a typical summer day, and were prepared according to EPA requirements. As directed by EPA, Maine completed a technical analysis of NO_x and VOC emissions for 2014/2015, 2017, 2019, and 2023. The 2014/2015 inventory year was mixed, with non-point data only available from 2014, and point, on-road and non-road data available for 2015. Given the incremental overall change in emissions that typically occurs from one year to the next for the non-point sector, where emission estimates are made using surrogates for activity levels such as changes in population or economic activity, the use of a different inventory base year for this sector (2014) should be reasonably consistent with the 2015 based emission estimates for the other inventory sectors.

Point sources include industrial, electric generation, commercial/institutional and large residential facilities. Facilities licensed to emit above certain threshold values submit annual activity and emissions data to Maine DEP's point source database using continuous emissions monitoring systems (CEMS) data, stack test data, or AP-42 or other appropriate emission factors. These submissions are then verified by Maine DEP. Maine point source data (as submitted to EPA) were used for the 2014 and 2017 point source emissions demonstration. Point source emissions data for 2023 were obtained from the Mid-Atlantic Regional Air Management Association (MARAMA) modeled inventories, downloaded from the Emissions Modeling Framework (EMF). Emissions for 2019 were estimated for point sources using a linear interpolation of 2014, 2015, 2016, 2017, and 2018 Maine point source data along with 2023 MARAMA model data.[8] Seasonal adjustment factors were used to adjust annual point source

[8] Information on the Mid Atlantic Regional Air Management Association, Inc. (MARAMA) 2011 inventory and projections for 2017 and 2023 emissions inventories scan be found at https://marama.org/.

data to tons per typical summer data. Per EPA guidance, the ten highest point source emitters for NO_x and VOCs were determined. Maine DEP reached out to these facilities to obtain seasonal adjustment factors. Where unavailable, such as for a facility no longer in operating status, monthly data for June, July, and August provided by the facility were summed and divided by 92 days. For those facilities not ranking as a top ten emitter for any of the inventory years studied, annual NO_x and VOC emissions were divided by 365 to estimate tons per typical summer day. Linear interpolations for 2019 emissions were completed on a per facility basis for those ranked as top ten emitters and as a group for those not ranking as a top ten emitter.

The non-point (or area) source emissions inventory consists of gasoline distribution sources, stationary area source fuel use, stationary area source solvent use, bioprocess sources, catastrophic/accidental releases, solid waste incineration, and other stationary area sources. EPA's National Emissions Inventory Version 2 (NEIv2) data for 2014 was used for the non-point components of the 2014/2015 inventory, MARAMA data downloaded from the EMF was used for the 2017 and 2023 non-point source emissions data, and 2019 data was generated through a linear interpolation of the 2014, 2017, and 2023 data. Seasonal adjustment factors by non-point source classification code (SCC), where available, were used to convert emissions in tons per year to tons per typical summer day. If no seasonal adjustment factor was available, annual emissions were divided by 365. The technical analysis was completed both with and without biogenic emissions data.

The mobile source emissions inventory contains two sub-categories: on-road and non-road. On-road mobile sources include cars, trucks, and buses. Non-road mobile sources include recreational equipment, farm equipment, residential lawn/garden equipment, and industrial/commercial construction off-road engines. Maine used EPA's Motor Vehicle Emissions Simulator (MOVES) to develop its annual emissions inventories according to EPA's guidance for on-road and non-road mobile sources using MOVES version 2014a and the NON-ROAD2008 model within MOVES2014a for the non-road sources. On-road and non-road

emissions estimates were generated for 2015, 2017, 2019, and 2023 inventory years. All data was generated in tons per typical summer day.

MOVES mobile sources emissions were generated for 2015 and 2017 assuming RFG use in the southern seven counties (York, Cumberland, Kennebec, Androscoggin, Knox, Lincoln, and Sagadahoc) and conventional gasoline use in Waldo and Hancock counties. Mobile sources emissions estimates of NO_x and VOCs were generated using MOVES2014a assuming RFG for 2019 in the southern seven counties and conventional gasoline in Waldo and Hancock counties, as well as with conventional gasoline statewide for 2019 and 2023. Emissions estimates for 2019 were generated two ways, with and without RFG, for comparison.

The fuel formulations for the gasoline compilations that best represented local conditions were selected from MOVES2014a default database.[9] Maine currently uses reformulated or conventional gasoline blended with 10% ethanol (E-10). Limits applied to RVP in the fuel formulations are used as control measures to regulate emissions. Effective June 1, 2015 a retailer who sells gasoline in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Knox, or Lincoln County may sell only RFG year-round. Conventional gasoline may be sold in all other counties in the State.

For this modeling demonstration, Maine selected fuel formulations that represent fuels that are currently sold in those counties encompassing the Portland and Midcoast Maintenance Areas. Terminals are required to report to Maine DEP on a quarterly basis the amounts of fuel sold with several fuel properties, including RVP. Weighted averages for each of the fuel properties were compiled and matched to an existing fuel formulation in the MOVES2014a default table. The regulatory limit for RVP for Hancock and Waldo County is 9.0 psi. The formulation chosen for the remaining counties is 7.0 psi based upon the reports obtained from the terminals. For this modeling demonstration, 7.0 psi RVP represents the required RFG VOC emissions performance standard, and 9.0 psi RVP represents conventional gasoline.

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[9] movesdb20161117

As summarized in Tables 1 and 2, the combined emissions inventories and MOVES model results project that the overall downward trend of VOC and NO_x emissions is not significantly disrupted by removing the federal RFG requirements from the southern Maine counties. The technical analysis of VOC emissions for all source categories demonstrates a continuous decline from 2015 to 2023 both with and without the required use of RFG in the southern Maine counties (Table 1). The decrease from 75.66 tons per typical summer day in 2014/2015 to 49.89 in 2023 represents a 34% decrease in VOCs (excluding biogenic emissions) over the demonstration period. There is a slight difference in the 2019 data comparison (RFG versus conventional gasoline) of VOCs excluding biogenic emissions. This difference of 0.5 tons per typical summer day (a 0.9% difference) is the result of differences in the mobile emissions generated with the MOVES model for 2019, one run assuming RFG in the southern seven counties, and the second for the same year assuming conventional gasoline in all nine modeled counties. Even with this slight increase for the single 2019 modeled year, the data show a decline in emissions between each modelled inventory year.

The technical analysis of NO_x emissions for all source categories demonstrates a continuous decline from 2014/2015 to 2023 both with and without the required use of RFG in the southern Maine counties (Table 2). The decrease from 91.55 tons per typical summer day in 2014/2015 to 55.44 in 2023 represents a 39% decrease in NO_x emissions over the demonstration period. There is a slight difference in the 2019 data comparison (RFG versus conventional gasoline). This difference of 0.1 tons per typical summer day (a 0.1% difference) is the result of differences in the on-road emissions generated with the MOVES model for 2019, one run assuming RFG in the southern seven counties, and the second for the same year assuming conventional gasoline in all nine modeled counties. Even with this slight increase for the single 2019 modeled year, the data show a decline in emissions between each modelled inventory year.

Table 1 – VOC emissions (all data categories without biogenic emissions). Shown in Tons Per Summer Day (TSD)

County	7.0 psi RVP (RFG)			9.0 psi RVP (Conv. Gasoline)	
	2015	2017	2019	2019	2023

Androscoggin	8.13	5.55	5.76	5.79	5.07
Cumberland	22.05	17.62	17.23	17.34	15.81
Hancock	6.19	4.49	4.50	4.50	3.61
Kennebec	10.29	6.93	6.92	6.99	5.82
Knox	4.48	3.70	3.55	3.63	3.26
Lincoln	3.39	2.79	2.60	2.68	2.37
Sagadahoc	4.13	2.61	2.76	2.82	2.31
Waldo	3.05	2.33	2.40	2.40	2.07
York	13.95	11.11	10.62	10.69	9.58
Total[10]	75.66	57.13	56.36	56.86	49.89

Table 2 – NO_x emissions (all data categories). Shown in Tons Per Summer Day (TSD)

County	7.0 psi RVP (RFG)			9.0 psi RVP (Conv. Gasoline)	
	2015	2017	2019	2019	2023
Androscoggin	7.88	5.81	5.57	5.58	4.86
Cumberland	29.18	26.00	22.50	22.52	18.69
Hancock	7.67	5.35	5.20	5.20	3.87
Kennebec	10.93	8.41	7.40	7.41	5.92
Knox	7.43	6.27	6.53	6.53	6.48
Lincoln	2.94	2.57	2.27	2.27	1.96
Sagadahoc	4.12	3.01	2.80	2.84	2.27
Waldo	3.24	2.98	2.63	2.63	2.27
York	18.16	13.70	11.90	11.91	9.12
Total	91.55	74.10	66.80	66.90	55.44

The emissions categories impacted by the removal of the RFG requirements for the southern Maine counties are the mobile source on-road and non-road. The MOVES modeling for these sectors show a steady decline in on-road emissions of VOC with and without the use of RFG in the southern Maine counties (Table 3), from 21.39 tons per summer day in 2015 to 10.99 in 2023, a 49% decrease in on-road VOC emissions over the demonstration period. There was a difference in the 2019 modeled data, with the conventional gasoline scenario resulting in emissions that were 0.1 tons per typical summer day less than the scenario assuming RFG use in the southern Maine counties. The MOVES model results show a steady decline in non-road emissions of VOC with and without the use of RFG in the southern Maine counties (Table 4). From 19.81 tons per summer day in 2015 to 15.61 in 2023, there was a 21% decrease in VOC emissions over the demonstration period. There was a slight difference of 0.58 tons per typical summer day in the 2019 modeled data scenario assuming RFG in the southern Maine counties

[10] The totals in the columns for all tables in this notice may differ slightly from the submittal due to how the decimal places were truncated.

compared to the scenario assuming conventional gasoline statewide, with the conventional gasoline scenario showing a 3.5% increase in emissions.

Table 3: On-road VOC emissions - Shown in Tons Per Summer Day (TSD)

County	7.0 psi RVP (RFG)			9.0 psi RVP (Conv. Gasoline)	
	2015	2017	2019	2019	2023
Androscoggin	2.18	1.68	1.41	1.41	1.11
Cumberland	6.21	4.79	4.03	3.98	3.18
Hancock	1.37	1.05	0.88	0.88	0.69
Kennebec	3.13	2.43	2.05	2.05	1.62
Knox	0.85	0.66	0.55	0.55	0.43
Lincoln	0.82	0.63	0.53	0.53	0.41
Sagadahoc	0.89	0.68	0.58	0.57	0.45
Waldo	0.86	0.67	0.56	0.56	0.44
York	5.08	3.96	3.36	3.32	2.66
Total	21.39	16.55	13.93	13.84	10.99

Table 4: Non-road VOC emissions - Shown in Tons Per Summer Day (TSD)

County	7.0 psi RVP (RFG)			9.0 psi RVP (Conv. Gasoline)	
	2015	2017	2019	2019	2023
Androscoggin	1.05	0.94	0.87	0.90	0.85
Cumberland	5.99	5.47	5.11	5.26	5.00
Hancock	2.60	2.23	2.19	2.19	1.82
Kennebec	2.14	1.89	1.70	1.77	1.61
Knox	1.51	1.34	1.20	1.28	1.12
Lincoln	1.64	1.47	1.34	1.42	1.30
Sagadahoc	0.77	0.68	0.61	0.67	0.60
Waldo	0.71	0.62	0.67	0.67	0.59
York	3.40	3.05	2.79	2.90	2.72
Total	19.81	17.69	16.49	17.07	15.61

The MOVES modeling for the mobile source on-road and non-road sectors also show a steady decline in on-road emissions of NO_x with and without the use of RFG in the southern Maine counties (Table 5), from 52.17 tons per summer day in 2015 to 22.64 in 2023, a 57% decrease in on-road NO_x emissions over the demonstration period. There was a slight difference in the 2019 modeled data, with the conventional gasoline scenario resulting in emissions that were 0.1 tons per typical summer day greater (a 0.31 percent increase) than the scenario assuming RFG use in the southern Maine counties. For the non-road sector, the MOVES model results show a steady decline in non-road emissions of NO_x with and without the use of RFG in the southern Maine counties (Table 6). From 11.52 tons per summer day in 2015 to 8.08 in 2023, there was a 30% decrease in NO_x emissions over the demonstration period. There was no

difference in the 2019 modeled data scenario assuming RFG in the southern Maine counties and the scenario assuming conventional gasoline statewide.

Table 5: On-road NO_x emissions - Shown in Tons Per Summer Day (TSD)

County	7.0 psi RVP (RFG)			9.0 psi RVP (Conv. Gasoline)	
	2015	2017	2019	2019	2023
Androscoggin	4.17	3.03	2.39	2.40	1.63
Cumberland	15.80	12.00	9.67	9.70	6.91
Hancock	2.98	2.16	1.68	1.68	1.09
Kennebec	8.11	6.20	5.08	5.09	3.72
Knox	1.53	1.11	0.86	0.86	0.56
Lincoln	1.64	1.19	0.92	0.93	0.60
Sagadahoc	2.66	2.02	1.63	1.67	1.17
Waldo	1.68	1.22	0.95	0.95	0.62
York	13.60	10.48	8.60	8.62	6.35
Total	52.17	39.40	31.79	31.89	22.64

Table 6: Non-road NO_x emissions - Shown in Tons Per Summer Day (TSD)

County	7.0 psi RVP (RFG)			9.0 psi RVP (Conv. Gasoline)	
	2015	2017	2019	2019	2023
Androscoggin	0.94	0.81	0.71	0.71	0.60
Cumberland	3.71	3.28	2.96	2.96	2.56
Hancock	1.09	0.99	1.07	1.07	0.95
Kennebec	1.14	1.00	0.90	0.90	0.76
Knox	0.95	0.86	0.79	0.79	0.69
Lincoln	0.64	0.59	0.55	0.55	0.49
Sagadahoc	0.53	0.46	0.41	0.41	0.36
Waldo	0.63	0.54	0.50	0.50	0.41
York	1.90	1.66	1.48	1.48	1.26
Total	11.52	10.19	9.37	9.37	8.08

The point and area VOC and NO_x inventories are not impacted by the removal of the federal RFG requirements from the southern Maine counties.[11]

b. Noninterference Analysis for the Ozone NAAQS

Under the Clean Air Act Amendments of 1990, southern Maine counties were divided into three separate ozone nonattainment areas under the 1-hour ozone standard: the Portland area which is comprised of York, Cumberland and Sagadahoc Counties; the Lewiston-Auburn area which is comprised of Androscoggin and Kennebec counties; and the Knox and Lincoln County area. Maine DEP opted the southern Maine counties into the federal RFG requirements for high ozone season gasoline to help bring the area into attainment for the 1-hour ozone NAAQS. As

[11] Please reference Maine's full noninterference demonstration titled "Revisions to the State Implementation Plan (SIP): Noninterference Demonstration for the Removal of Reformulated Gasoline (RFG) Requirement, 2020" available in the docket for this action.

explained in section II of this notice, the use of MTBE in RFG at that time led to concerns over ground-water contamination, and therefore the State petitioned EPA, and EPA approved, to replace the RFG requirements with a low-RVP fuel program with an effective date of April 5, 2002 (67 FR 10099).). In 2015, Maine decided to remove the 7.8 psi RVP gasoline requirement from its SIP due to limited supply, and with MTBE no longer being added to RFG, opted back into the federal RFG program as an alternative ozone control strategy. Subsequently, EPA approved the removal of the State's regulation that established the 7.8 psi RVP standard on July 19, 2017 (82 FR 33012) and the requirement for 7.8 psi RVP ceased to be in Maine's SIP. In addition, EPA approved the State's request to opt into RFG on February 6, 2015 with an effective date of June 1, 2015 for retailers and wholesale purchaser-consumers (80 FR 6658). This sequence of fuel programs has contributed to the lowering of VOC and NO_x emissions in the southern Maine counties. Implementation of other federal control measures such as Tier 3 Motor Vehicle Emissions and Fuel Standards,[12] Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements,[13] Control of Emissions of Air Pollution From Nonroad Diesel Engines and Fuel[14] and Control of Emissions From Nonroad Spark-Ignition Engines and Equipment[15] along with fleet turnover, further reduced NO_x and VOC emissions in the area. As a result, the nonattainment areas within the southern Maine counties were redesignated to attainment for the 1-hour ozone NAAQS and the 1997 8-hour ozone NAAQS. The southern Maine counties are continuing to meet the 1-hour ozone NAAQS and the 1997 8-hour ozone NAAQS, even though these NAAQS have been revoked,[16] and the entire State of Maine was designated as attainment/unclassifiable for both the 2008 and 2015 ozone standards. (77 FR 30088; May 21, 2012) (82 FR 54232; November 16, 2017). The trend in monitoring levels for ozone for the ozone monitors in the southern Maine counties is shown in

[12] 79 FR 23414
[13] 66 FR 5002
[14] 69 FR 38958
[15] 73 FR 59034
[16] 70 FR 44470 and 80 FR 12264, respectively.

Table 7, with the current monitoring levels for the Androscoggin, Cumberland, Kennebec, Knox, and York monitors for the period of 2017-2019 being 0.057 ppm, 0.064 ppm, 0.060 ppm, 0.061 ppm, 0.064 ppm, respectively. These 3-year design values are below the 8-hour ozone standard of 0.070 ppm. In addition, quality controlled and quality assured ozone data that are available in EPA's Air Quality System (AQS), but not yet certified for 2018-2020 show that the Southern Maine counties continue to meet the 2008 8-hour ozone NAAQS. The preliminary design value for 2018-2020 data in Kennebec County is not listed due to the data completeness requirement not being met for the monitor. The data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90%, and no single year has less than 75% data completeness as determined in Appendix I of 40 CFR part 50.

Table 7 – Monitoring Level Concentrations for the Southern Maine Counties (ppm) [17]

		4th Highest 8-hour ozone value (ppm)			3-Year design values (ppm)		
County	Site ID	2017	2018	2019	2016-2018	2017-2019	2018-2020 (preliminary)
Androscoggin	23-001-0014	0.062	0.059	0.050	0.059	0.057	0.053
Cumberland	23-005-2003	0.064	0.067	0.062	0.062	0.064	0.062
Kennebec	23-011-2005	0.067	0.060	0.054	0.066	0.060	n/a
Knox	23-013-0004	0.062	0.064	0.059	0.063	0.061	0.060
York	23-031-2002	0.062	0.068	0.064	0.066	0.064	0.064

EPA also evaluated the potential increase in the VOC and NO_x precursor emissions and whether it is reasonable to conclude that the requested removal of the RFG requirements in southern Maine counties during the high ozone season would cause the area to violate any ozone NAAQS. Table 7 shows that there is an overall downward trend in ozone concentrations in the southern Maine counties. This decline can be attributed to federal and state programs in addition to those mentioned above that have led to significant emissions reductions in ozone precursors, such as the federal interstate transport rule known as the Cross State Air Pollution Rule (CSAPR), and state implemented reasonably available control technology (RACT) for stationary sources of VOCs including both major sources and sources for which EPA has issued a control

[17] This table includes monitor information for all ozone monitors located in the southern Maine counties, or the highest monitor if more than one monitor is located per county. No ozone monitors are located in either Lincoln or Sagadahoc counties.

technique guideline (CTG). EPA last approved a CTG into Maine's state implementation plan on August 7, 2019.[18] Given the results of Maine's emissions analysis, the downward trend in precursor emissions, and the current ozone concentrations in the southern Maine counties as seen in Table 2, EPA concludes that removing reliance on RFG requirements in York, Cumberland, Kennebec, Androscoggin, Knox, Lincoln, and Sagadahoc counties will not interfere with Maine's ability to maintain the 2008 and 2015 8-hour ozone NAAQS.

Based on the continued downward trend of ozone levels, as supported by the preliminary design values for Maine monitoring sites shown in Table 7, EPA proposes to find that removing reliance on RFG requirements in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Knox, and Lincoln Counties will not interfere with Maine's ability to continue attaining the 2015 ozone NAAQS in the southern Maine counties area.

c. Noninterference Analysis for the Carbon Monoxide NAAQS

EPA initially established NAAQS for CO on April 30, 1971 (36 FR 8186). The standards were set at 9 ppm as an 8-hour average and 35 ppm as a 1-hour average, neither to be exceeded more than once per year. On November 6, 1971 (56 FR 56694), EPA designated areas for the 8-hour CO NAAQS. The southern Maine counties have never been designated nonattainment for any CO NAAQS. EPA retained the 1-hour and 8-hour CO NAAQS on August 31, 2011, and Maine has continued to maintain compliance with the NAAQS due to non-RFG federal control measures put in place. In 2019, Maine operated three CO monitors, including one in Cumberland County. The 2018-2019 8-hr design value for the Cumberland County monitor is 0.9 ppm. The 2018-2019 1-hr design value for the Cumberland County monitor is 1.2 ppm. Both of these values are significantly below the respective standards of 9 ppm and 35 ppm. RFG requirements will have little to no impacts on CO emissions because, as mentioned earlier, the RFG program was developed to address emissions of the ozone precursors, NO_x and VOC. As a result, EPA

[18] 84 FR 38558.

proposes to find that removing reliance on RFG in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Knox, and Lincoln Counties will not interfere with Maine's ability to continue attaining the CO NAAQS.

d. Noninterference Analysis for the Particulate Matter NAAQS

The main precursor pollutants for $PM_{2.5}$ are NO_x, SO_2, VOC, and ammonia. As mentioned above, the federal RFG requirements result in emissions benefits for VOC, NO_x and air toxics. EPA first established NAAQS for PM in 1971, based on the original Air Quality Criteria Document (AQCD).[19,20] Over the course of several years, EPA has reviewed and revised the $PM_{2.5}$ NAAQS a number of times. On July 16, 1997, EPA established an annual $PM_{2.5}$ NAAQS of 15.0 micrograms per cubic meter ($\mu g/m^3$), based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and a 24-hour $PM_{2.5}$ NAAQS of 65 $\mu g/m^3$, based on a 3-year average of the 98th percentile of 24-hour concentrations. EPA retained the primary annual PM_{10} standard and revised the form of the primary 24-hour PM_{10} standard to be based on the 99th percentile of 24-hour PM_{10} concentrations at each monitor in an area. See 62 FR 36852 (July 18, 1997). On December 22, 2000, EPA removed the vacated 1997 PM_{10} standards, and the pre-existing 1987 PM_{10} standards remained in place.[19] On September 21, 2006, EPA retained the 1997 Annual $PM_{2.5}$ NAAQS of 15.0 $\mu g/m^3$ but revised the 24-hour $PM_{2.5}$ NAAQS to 35 $\mu g/m^3$, based again on a 3-year average of the 98th percentile of 24-hour concentrations. See 71 FR 61144 (October 17, 2006). The 1997 Primary Annual $PM_{2.5}$ NAAQS has been revoked for all purposes effective October 24, 2016 (81 FR 58010) in all areas that were designated as attainment for that NAAQS and in all areas that were initially designated as nonattainment areas and have been redesignated to attainment with an approved CAA section 175A maintenance plan. On December 14, 2012, EPA retained the 2006 24-hour $PM_{2.5}$ NAAQS of 35 $\mu g/m^3$ but revised the annual primary $PM_{2.5}$ NAAQS to 12.0 $\mu g/m^3$, based again on a 3-year average of annual mean $PM_{2.5}$ concentrations.

[19] 65 FR 80776.

EPA retained the existing primary 24-hour PM_{10} standard, with its level of 150 $\mu g/m^3$ and its one-expected-exceedance form on average over three years. *See* 78 FR 3086 (January 15, 2013).

The southern Maine counties have never been designated nonattainment for any PM NAAQS. In 2019, Maine operated five $PM_{2.5}$ monitors, including one in Cumberland County and one in Androscoggin County. The annual mean design values for $PM_{2.5}$ for Cumberland and Androscoggin counties 2017-2019 are 7.5 $\mu g/m^3$ and 6.0 $\mu g/m^3$, respectively. Both of these values are below the annual $PM_{2.5}$ standard of 12.0 $\mu g/m^3$. The design values for the 24-hour $PM_{2.5}$ NAAQS for Cumberland and Androscoggin counties in 2017-2019 are 17 $\mu g/m^3$ and 15 $\mu g/m^3$, respectively. Both of these values are significantly below the 24-hour $PM_{2.5}$ standard of 35 $\mu g/m^3$. Maine operated nine PM_{10} monitors in 2019, including two in Cumberland County, and one in Androscoggin County. There were no average estimated exceedances of the 24-hour PM_{10} standard of 150 $\mu g/m^3$ for monitors in the southern Maine counties in 2019. Opting out of the RFG requirements in the southern Maine counties will have little to no impact on the precursor emissions as indicated by the decline in VOC and NO_x emissions in Tables 1 and 2 above. Based on this information, the monitoring data, and the current attainment status of all Maine counties, EPA proposes to find that removing reliance on RFG requirements in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Knox, and Lincoln Counties will not interfere with Maine's ability to maintain the 2012 $PM_{2.5}$ NAAQS.

e. Noninterference Analysis for the 2010 NO_2 NAAQS

The annual NO_2 NAAQS was established in 1971, and EPA retained the NO_2 standards on February 9, 2010 (75 FR 6474). All of the counties in Maine were designated unclassifiable/attainment for the 2010 NO_2 NAAQS on February 17, 2012 (77 FR 9532). There are both primary and secondary standards for NO_2. The primary NAAQS is an annual arithmetic mean that must not exceed 53 parts per billion (ppb). A 3-year average of the 98th percentile of daily maximum 1-hr averages must not exceed 100 ppb. The secondary standard is an annual arithmetic mean that must not exceed 53 ppb. In 2019, Maine operated three NO_2 monitors,

including one in Cumberland County, and one in Kennebec County. The 2017-2019 1-hr average design value for the Cumberland County NO_2 monitor is 40 ppb, with an annual mean of 6.96 ppb. The 1-hr average design value for Kennebec County in 2017-2019 is 27 ppb, with an annual mean of 2.8 ppb. Both of these values are significantly below the respective standards of 100 ppb and 53 ppb. Based on the technical analysis in Maine's August 20, 2020 noninterference demonstration, as shown in Table 2, there is a reduction in NO_x emissions from 2014/2015 to the 2023 "out year" from 91.55 tons per typical summer day (tsd) to 55.44 tsd, representing a 39% decrease in NO_x emissions. As mentioned above and shown in Table 5, in the on-road NO_x emissions analysis submitted by Maine, there is a 0.1% increase in emissions for the modeled year 2019. Even with the slight increase for the single 2019 modeled year, the data show a decline in emissions between each modelled inventory year.

Based on the amount of NO_x reductions, the use of pollution control devices on power plants, industrial boilers, fleet turnover, and other federal control measures for motor vehicles, EPA proposes to find that removing reliance on RFG requirements in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Knox, and Lincoln Counties will not interfere with Maine's ability to continue attaining the 2010 NO_2 NAAQS in the southern Maine counties area.

f. Noninterference Analysis for the SO_2 NAAQS

On June 22, 2010 (75 FR 35520), EPA revised the SO_2 standard. There are both primary and secondary standards for SO_2. The primary SO_2 NAAQS is a 3-year average of the 99th percentile of the daily maximum 1-hour concentration not to exceed 75 ppb. The secondary standard is a 3-hour concentration not to exceed 0.5 ppm more than once per year. In 2019, Maine operated four SO_2 monitors, including one in Cumberland County, and one in Kennebec County. Both Cumberland and Kennebec County SO_2 monitors have a 2016-2019 design value of 5 ppb for the 1-hour SO_2 NAAQS. Based on the monitoring data, EPA proposes to find that removing reliance on RFG requirements in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Knox, and Lincoln Counties will not interfere with Maine's ability to maintain the

SO_2 NAAQS because both RFG and conventional gasoline are subject to the same sulfur limit which was established in the Tier 3 vehicle emission and fuel standards final rule. (*See* 79 FR 23414, April 28, 2014.)

g. Noninterference Analysis for the Pb NAAQS

In the atmosphere, lead (Pb) is emitted as particles, mainly from smelters, ore and metal processing facilities, waste incinerators, public utilities and lead-acid manufacturers. Since tetraethyl lead was removed from motor vehicle fuel, the ambient levels of lead in Maine dropped significantly and concentrations are currently at or below minimum detection limits for most Pb monitors. On November 12, 2008 (73 FR 66964), EPA revised the primary Pb standard to a rolling 3 month average of 0.15 $\mu g/m^3$ and revised the secondary standard to be identical in all respects to the revised primary standard. On December 27, 2010 (75 FR 81126). EPA published a final rule revising Pb monitoring requirements that require lead monitoring at NCore sites in large urban areas (identified as Core Based Statistical Areas, or CBSA) with a population of 500,000 people or more.[20] The Bar Harbor NCore site is designated as a rural site, so there is no requirement for Pb monitoring in Maine. On October 18, 2016 (81 FR 71906), EPA retained the primary and secondary standards for Pb. As such, EPA proposes to find that removing reliance on RFG in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Knox, and Lincoln Counties will not interefere with Maine's ability to continue attaining the Pb NAAQS.

VI. Proposed Action

EPA is proposing to approve Maine's revision to its SIP and corresponding noninterference determination, submitted on August 20, 2020, in support of Maine's separate petition to opt-out of the federal RFG requirements for in York, Cumberland, Kennebec, Androscoggin, Knox, Lincoln, and Sagadahoc counties. Specifically, EPA proposes to find that this change in

[20] The NCore network that formally began in January 2011, is a subset of the state and local air monitoring stations network that is intended to meet multiple monitoring objectives (e.g., long-term trends analysis, model evaluation, health and ecosystem studies, as well as NAAQS compliance). The complete NCore network consists of 63 urban and 15 rural stations, with each state containing at least one NCore station; 46 of the states plus Washington, DC and Puerto Rico have at least one urban station.

removing reliance on the federal RFG requirements for the southern Maine counties will not interfere with attainment or maintenance of the NAAQS or with any other applicable requirement of the CAA. Maine's August 20, 2020, SIP revision updates the Maine C.M.R. ch. 119 Motor Vehicle Fuel Volatility Limits that is approved into Maine's SIP and adopts Maine statute at 38 M.R.S. §585-N as amended by Pub. L. 2019, c. 55, §1 to reflect Maine's request to opt out of the federal RFG requirements. EPA is proposing to find that Maine's August 20, 2020, SIP revision is consistent with the applicable provisions of the CAA, including section 110(l). In this action, EPA is not acting on the State's opt-out petition to the EPA Administrator to remove the federal RFG requirement for York, Cumberland, Kennebec, Androscoggin, Knox, Lincoln, and Sagadahoc counties. Any decision by the Administrator on the opt-out petition would occur in a separate action. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

VII. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference into Maine's SIP Maine's revisions to C.M.R. ch. 119 *Motor Vehicle Fuel Volatility Limits* that remove the State's requirement for the sale of RFG in the southern Maine counties and concurrently adopting Maine statute at 38 M.R.S. §585-N as amended by Pub. L. 2019, c. 55, §1, which repealed the State's requirement for the sale of RFG in the southern Maine counties effective November 1, 2020, as discussed in section I. The EPA has made, and will continue to make, these documents generally available through https://www.regulations.gov and at the EPA Region 1 Office (please contact the person

identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VIII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 17, 2021.

Deborah Szaro,
Acting Regional Administrator,
EPA Region 1.

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